

**Charities Advisory Council**  
June 12, 2017 Meeting Minutes (Amended)  
Matt Griffin YMCA, SeaTac

**Present:** Mike Plymale, Steve Wilmes, Stuart Grover, Mary Kay Gugerty, Jennifer O'Bannan, Adam Borgman, Howard Donkin, Judy Andrews, Liz Davis, Scott Douglas (AGO), Dan Speigle, (SOS), Patrick Reed, (SOS), and Rebecca Sherrell, (SOS).

**By Phone:** Moonwater, Carrie Green

**Absent:** Tammy Watts

**Agenda Item #1: Call to Order**

- Mike Plymale, Council Chair, called the meeting to order and welcomed the council members.

**Agenda Item #2. Old Business**

- Review of the January 9, 2017, Meeting Minutes: A motion was made to accept the minutes as submitted. Motion was seconded. Votes were cast and the motion carried. Two members abstained.
- Review of the June 9, 2017 action items:
  - 1.) Teresa agreed to and emailed the link to the Education Resources Video to the council members. The link was emailed to the members however, if members need to review the video, it is located on the charities training page of the website. The video is available [here](https://vimeo.com/169901840). (<https://vimeo.com/169901840>)
  - 2.) As decided during the January 2017 meeting, the types of professions were added to the Charities Advisory Council webpage without attributing to specific people.
- Review draft of “Fundraising Auctions and Events” information sheet

The council members reviewed, discussed and edited the draft document. A couple of sections will require research and follow-up.

- ❖ Howard will follow up with additional information regarding the section dealing with IRS Form 8283.
- ❖ Judy will draft text for the “new question number one” and circulate the draft to council members by email for feedback before our next meeting in January 2018.

### **3. Agenda Item #3: Give and Take Conference**

In March, Scott and Rebecca attended the Give and Take Conference in Washington D.C. The two-day conference was hosted by the Federal Trade Commission. The first day was open to the public and the second day was open to regulators only.

The discussions centered on evolving technologies and new solicitation practices on behalf of charitable causes and the possible impact it may have on individual giving. Also discussed, was social media solicitations; internet solicitations, crowdfunding, donor advised funds, giving by text, etc.

Rebecca shared statistics provided by the Colorado Attorney General based on a survey with AARP. “Oldest generations more likely to give and give more, on average,” “Gender differences in crowdfunding donors,” and “Social media viral campaigns” including “Notable scandals.”

Scott added that with the current and emerging technology that is being used to solicit funds, and how exactly that comports with the laws that were written before any of that was possible. One of the key questions was, should the new methods of giving be regulated?

While the dollar amount of giving online is growing, and you may not be looking at a very large percent of charitable giving overall, it can be a very large number of transactions. For example, following the Haiti earthquake, donors could text a \$10 donation and they raised an incredible amount of money -- \$10 at a time. So you're looking at a huge number of transactions even if it's a very small percentage of the overall funds that are being donated.

Take a ways from conference? The states are trying to identify and understand all the numerous ways of donating that didn't exist before. Are the current laws sufficient enough to address the crowdfunding and other online fundraising? Do the laws need to be amended or will the Charleston Principles be adequate?

A council member asked if there had been progress on any uniformity on charitable solicitation laws or enforcement of the laws.

The short answer is “no,” but Scott explained that there is interest and movement in that direction.

### **4. Update on the Statewide Education Contract**

Washington Nonprofits is the current vendor conducting nonprofit education statewide and the contract ends June 30, 2017. An RFP has been posted for a vendor for the next biennium, proposals are due June 15 and the review will begin June 16. There will be a

brief gap until the new contract takes effect. A brief gap during the summer doesn't pose a problem since most people use this time for vacation. The successful vendor will be expected to provide education throughout the state, including remote areas. It is the remote areas that may not have any other training.

The council is interested in reviewing the material Washington Nonprofits provides to the Office of the Secretary of State at the conclusion of the contract June 30, 2017. Rebecca agreed to provide the information to the council when it is received.

## **5. Update on the Division's Online Filing System**

The division is building an online filing system and today they are kicking off the Charities testing. We are in the middle of our user acceptance testing. The scope of the testing has been significantly expanded after what happened with ATLAS and the Department of Revenue. We're making good progress.

Patrick will be involved in training and will train the service companies: CT and Corporation Service Company. Between the two, they have over 100,000 clients registered that they serve or file paperwork on their behalf. Since we don't know who plans to start a business, some of the ways we've tried to reach out, is to hold regular workshops with the small business administration and participate in the Biz Fair at the Renton Technical College each year. We typically reach 400 to 600 attendees that are thinking about starting a business.

The training mentioned above is for profit entities. A suggestion was made to talk to Wayfind, Washington Nonprofits and 501 Commons, who take in a lot of questions from people who are trying to incorporate as a nonprofit.

- Will the nonprofit corporations be able to include an attachment when filing online?  
Yes, the system will allow attachments to be uploaded.
- Will renewing organizations need to renew from scratch or will information pre-populate?

Dan explained that the office will convert the data from the old system to the new system and will pre-populate as customers go online to renew corporate or charities filings. The one change that was made from our original planning, was the name look-up. We thought we could build a system to look-up the names for profits and nonprofits all electronically, using computer logic. The problem is, the law is rather complex – even though Washington law is a “distinguishable upon the record” rather than “deceptively similar” state, the language in the law is still pretty broad. We were shooting for typing in your name and if the computer identified the name as available, you would hit a button your documents would be FILED! The logic to do the name comparison (with all the possible abbreviations) is much more difficult which is why no corporate office in the country is able to do it.

Washington will still use human review for the corporate name only. Business rules have been built in for the remainder of the document.

A member asked Dan to walk him through the steps – will I receive an email or other notice?

The process is bifurcated between Department of Revenue, Business Licensing Service for those who are profit corporations and Limited Liability Companies – they are our agent and that process isn't changing.

The customer must create a "My DOR" account or, it used to be called "SAW" (Secure Access Washington). Then, you select "filing an annual report" and submit it in that fashion.

In the Secretary of State's new system, you'll log in with your UBI number and select "renewal." If someone hasn't filed online yet, they'll need to sign up for access.

- Will the organizations still receive postcards?

In Corporations – Yes, postcards will go out to everyone, but if you would like an **email** reminder, customers will need to "Opt-in." If you opt-in for an email reminder, you will receive both an email and postcard.

In Charities – Yes, you will continue to receive postcard and email reminders.

## **6. New Reporting Standards**

Mike handed out an information article that briefly describes new reporting standards for non-profit entities. The new model, effective in 2018, changes the way most non-profit entities present their financial statements. Among other things, the new standards provide expanded guidance that is intended to enhance consistency and transparency regarding the allocation of costs between administration, fund raising and programs. The Secretary of State requires charities to report this information, and many donors use it to help make funding decisions. The discussion was not intended to deep-dive into the details, but rather to increase general awareness about the changes

## **7. Update regarding WAC 434-120-035**

The current version of the Charities regulations state that mandatory online filing is effective May 1, 2017. Since the system hasn't been launched, an amendment was filed to move the effective date of the mandatory online filing to January 1, 2018. Except for initial trust registrations, paper documents will not be accepted after December 31, 2017.

Rebecca shared that she received notice that the IRS is updating their website.

## **8. Update regarding the Nonprofit Law**

Judy provided an overview of the rewrite of the Nonprofit Law the committee has been working on and she's happy to report they have finished a draft of the statute except they're still working with the Attorney General on the charitable assets. There was a slight delay because Sarah left the AG's office, then her replacement Leilani left the AG's office, then President Trump was elected and the Attorney General decided to sue President Trump.

The draft has some Attorney General enforcement in the statute, but there wasn't any provision that talked about what that might mean and how that might happen. So they took the provisions from the Consumer Protection Act and revised them to fit into the nonprofit corporations' law so there will be some way to understand those.

The committee also hopes to make a change to the Charitable Trust Act, which is a really old law and should be congruent with the nonprofit corporation act and Uniform Prudent Management of Institutional Funds Act (UPMIFA.)

The trust act is very confusing because it makes charitable organizations, except for churches and educational institutions, to be charitable trusts when they have charitable assets. Where it gets confusing is, what is the standard that you use to determine if someone is fulfilling their fiduciary duties and, what are those duties? Because Trust duties are different from corporate duties and we don't have anything in the law that talks about it.

People on nonprofit boards need to understand what their duties are and once they hear they have Trust duties, they start resigning. The committee has also added a funding provision to the act so that part of the increase to the filing fee would go to the Attorney General for education and enforcement.

There is now a derivative section which allows directors, minority directors, one director, or members, to sue a nonprofit under certain circumstances where there might be broad or other violations of the law or bad behavior, where it's questionable if it's currently permitted.

Fundamental transactions will permit conversions and domestications.

The committee is just finishing an Executive Summary and we'll start getting it out to the nonprofit community as well as through the Bar Association and other appropriate sections of the Bar and through the process so we'll have the lobbyist working for us when we get to the Legislature - hopefully in 2018, but we might not make it. It will depend on the State Bar process – which can be lengthy.

The nonprofit act is really for charitable organizations. There is a Washington Nonprofit Corporation Act 24.06 which is for miscellaneous and mutual corporations. We will leave

24.06 RCW and grandfather everyone who's there. Those are organizations such as REI, unions, lots of hospitals have taxable nonprofits that are incorporated under 24.06 RCW.

A council member asked if the Executive Summary would be publically available for review and wondered if the council could receive a copy.

Judy would be happy provide a copy when available.

Teresa will be emailing council members her event schedule once a month. Rebecca asked members to take note of the areas the events will be held. If there is an event in or close to your area, you're encouraged to attend. Let Teresa know ahead of time if you plan to attend, even if it's not for the entire event.

## **9. For the Good of the Order**

- Value Village in Yakima closed down.

Steve didn't know if they decided they weren't getting enough volume in town. Steve admits it was a topic that he didn't understand.

We have thrift stores in my organization as well and we raise money very differently. We were trying to highlight that our thrift store does very different things with the money that you pay for your \$4.00 shirt or your \$10 pair of pants vs. Value Village. They say they are raising money for a local organization...well, they're not. It's Northwest Center.

- Political activities

Howard is receiving a lot of questions from clients about political activities due to comments from President Trump. What can they do and how much can they do? How can they protect themselves? Is that addressed in the revised nonprofit act?

Political activities are regulated by the Washington State Public Disclosure Commission or the Federal Election Commission.

Perhaps a representative from the Public Disclosure Commission would be able to speak to the council about what kind of problems they're having with nonprofits.

Patrick explained that at the end of 2016 – filing times fell behind. In March of 2017, Corporations suffered a significant setback by a partner agency, but between the overtime and the progress that's been made, we're in the best shape we've ever been in.

Mike experienced something entirely different with the Department of Revenue... he filed a Washington Estate Tax return and was told it would be 13 months before they looked at it. The executor can't close without a closing letter.

Judy sees a lot of client confusion regarding tax-exempt organizations. They don't pay federal tax, but they pay state sales tax sometimes. It would be nice to have someone from the Department of Revenue come and talk about B&O Tax and what the exemptions are. Perhaps a FAQ sheet on Washington State Taxes for Nonprofit Organizations. (Mark Hugh?)

Rebecca mentioned one of biggest misconception the Charities Program deals with involves nonprofit status, charities status and tax-exempt status. Many times, when people incorporate as a nonprofit, they automatically assume they have also registered as a charitable organization (and vice versa). So when working with your nonprofit clients, please check to see if they also need to register (or may need to in the future) with the Charities Program. The key will be if they are, or plan to, raise funds.

A charity is shutting down and is in possession of ivory, which is prohibited. (They repair pianos.) Anything they do will be in violation. The only provision allows them to turn over to law enforcement. The charity has looked for other piano charities and there aren't any. A suggestion was made to transfer to Universities.

10. Next Meeting?                    **January 12, 2018**